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Attorneys For Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

CONGREGATION POILE ZEDEK,

Plaintiff,

vs.

UNITED STATES CONSUMER
PRODUCT SAFETY
COMMISSION,

Defendants.

Civil Action No.

Complaint

1. This is an action under the Freedom of Information Act ("FOIA"),
5 USC §552, for injunctive and other appropriate relief and seeking the

disclosure and release of agency records pertaining to Plaintiff, Congregation Poile Zedek, improperly withheld from it by the United States Consumer Product Safety Commission (“USPSC”).

Jurisdiction and Venue

2. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 USC §552(a)(4)(B). This Court also has jurisdiction over this action pursuant to 28 USC §1331. Venue lies in this District under 5 USC §552(a)(4)(B).

Parties

3. Plaintiff is a religious congregation located in the City of New Brunswick, of the County of Middlesex, State of New Jersey.

4. Defendant, the USPSC, is a commission within the Executive Branch of the United States Government. The USCPSC is an agency within the meaning of 5 USC §552(a)(4).

5. Defendant, USCPSC, may be served with process of this Court by delivering a copy of the Summons and Complaint to the United States Attorney for the District of New Jersey, or to an Assistant United States Attorney for the District of New Jersey, or to a clerical employee whom the United States Attorney

has designated in a writing filed with the Court Clerk; and by serving a copy of the Summons and Complaint by certified mail on Robert S. Adler, acting chair of the U.S. Consumer Products Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

Facts

6. By letter dated February 2, 2019, addressed to the FOIA Requester Service Center, US Consumer Product Safety Commission, Plaintiff requested copies of all records with regard to CPSC Case No. 151117CCC1136 in addition to certain information concerning the safety of electric space heaters manufactured by Cuori Company and/or sold by Home Depot. This request is more particularly described in Exhibit A.

7. By letter dated February 11, 2019, the USCPSC advised Plaintiff that its FOIA request had been received and that it had been assigned Number #19-F-00120. (Exhibit B)

8. On April 11, 2019 (Exhibit C), August 6, 2019 (Exhibit D) and October 25, 2019 (Exhibit E), Plaintiff wrote to the USCPSC requesting a prompt response to the FOIA Request referred to above.

9. In addition, Plaintiff's counsel has conferred with Angela Hix of the USCPSC demanding a response to the FOIA request referred to above.

10. More than 20 days has passed since the USCPSC received Plaintiff's FOIA request, and it has not notified Plaintiff as to whether it will fully comply with its request. Thus, under 5 USC §552(a)(6)(A) and 5 USC §552(a)(6)(C), Plaintiff has exhausted the applicable administrative remedies with respect to its FOIA request.

11. Plaintiff has a right of prompt access to the requested records under 5 USC §552(a)(6)(A) and the USCPSC has wrongfully withheld the sought-after documents.

12. There is no lawful basis for the failure of the USCPSC to timely produce the requested documents.

Requested Relief

Wherefore, Plaintiff prays that this Court:

1. Order Defendant to disclose the requested records in their entireties and make copies available to Plaintiff;
2. Provide for expeditious proceedings in this action;
3. Award Plaintiff their costs and reasonable attorneys fees incurred in this action; and
4. Grant such other relief as the Court may deem just and proper.

Respectfully submitted,

**SZAFERMAN, LAKIND,
BLUMSTEIN & BLADER, P.C.**

s/Arnold C. Lakind
Arnold C. Lakind

Dated: October 31, 2019

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#Retired

February 1, 2019

FOIA Requester Service Center
US Consumer Product Safety Commission
4330 East West Highway, Room 820
Bethesda, MD 20814

Re: Poile Zedek Fire
CPSC Case No. 151117CCC1136

Dear Madam or Sir:

Please accept this letter as a Freedom of Information Act Request for copies of all reports, investigations, photographs, videos, statements, meeting logs, technical staff reports and other information received and/or reviewed in connection with the above matter, which arose out of a fire that occurred in a space heater at the Poile Zedek Synagogue located at 145 Neilson Street in New Brunswick, New Jersey. The fire occurred on October 22, 2015 and I would like all information accumulated since that date.

In addition, please send me a copy of all consumer complaints, logs, technical staff reports and other information concerning the safety of electric space heaters containing oil and/or electric space heaters manufactured by Cuori company and/or sold by Home Depot.

Please send the information in electric format to my email address at alakind@szaferman.com. Please provide me with an estimate of your fees.

**SZAFERMAN
LAKIND**

*FOIA Requester Service Center
US Consumer Product Safety Commission
February 1, 2019
Page 2*

Thank you.

Very truly yours,

**SZAFERMAN, LAKIND,
BLUMSTEIN & BLADER, P.C.**



Arnold C. Lakind

ACL/s

c: Rabbi Abraham Mykoff
Eric Kammer
Yaakov Burr
Harold Gerr, Esq.

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**U.S. CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814-4408**

Abioye E. Mosheim
Chief FOIA Officer
Assistant General Counsel
Office of the General Counsel
Division of the Secretariat

Tel: 1-800-638-2772
Fax: 301-504-0127
Email: cpsc-foia@cpsc.gov

February 11, 2019

Mr. Arnold Carl Lakind
Attorney
Szaferman, Lakind
101 Grovers Mill Road
Quakerbridge Exec Center
Lawrenceville, NJ 08648

RE: Freedom of Information Act Request #19-F-00120: Copies of all reports, investigations, photographs, videos, statements, meeting logs, technical staff reports and other information received and/or reviewed in connection with a fire that occurred in a space heater at the Poile Zedek Synagogue located at 145 Neilson Street in New Brunswick, New Jersey. The fire occurred on October 22, 2015 and I would like all information accumulated since that date

Dear Mr. Lakind:

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request seeking records from the U.S. Consumer Product Safety Commission (Commission) and also assigns your FOIA request number.

Due to certain procedural steps we are required to take under section 6(b)(1) of the Consumer Product Safety Act, 15 U.S.C. § 2055, there may be delays in providing the records. Specifically, section 6(b)(1) requires that before disclosing information that would enable the public to identify the manufacturer or private labeler of a consumer product, the Commission shall, to the extent practicable, notify and provide a summary of the information to each manufacturer or private labeler, and provide each manufacturer or private labeler a reasonable opportunity for comment in reference to the information. Please be assured that every effort is being made to process each request as expeditiously as possible, and that the records or information that you have requested will be made available to you at the earliest possible date.

Page 2 – Mr. Lakind
19-F-00120

We regret that due to the recent lapse of appropriations our office was closed from December 22, 2018 to January 26, 2019, and FOIA staff was unable to process any new or pending requests and appeals during that time. The resulting backlog of new and pending requests will necessarily impact our processing times. We appreciate your patience as we work to remedy the delay.

If you have any questions concerning the status of your request, contact our office, as described above, and provide your assigned FOIA request number.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Mosheim". The signature is fluid and cursive, with the first letter "A" being particularly large and stylized.

Abioye E. Mosheim
Chief FOIA Officer
Assistant General Counsel
Office of the General Counsel
Division of the Secretariat

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#Retired

April 11, 2019
Via Certified and Regular

FOIA Requester Service Center
US Consumer Product Safety Commission
4330 East West Highway, Room 820
Bethesda, MD 20814

Re: Poile Zedek Fire
CPSC Case No. 151117CCC1136
Freedom of Information Act Request #19-F-00120

Dear Madam or Sir:

On February 1, 2019, I submitted the above Freedom of Information Act Request. On February 11, you informed me that section 6(b)(1) of the Consumer Product Safety Act requires that, before disclosing information, the Commission shall "to the extent practicable, notify and provide a summary of the information to each manufacturer" 15 U.S.C. 2055(a)(3) requires a manufacturer to respond within 15 days identifying proprietary information. Clearly enough time has gone by to allow you to assess whether or not the requested information may be disclosed. As you know 16 CFR 105.4 requires a response within 20 days. Please provide the requested information within the next ten days.

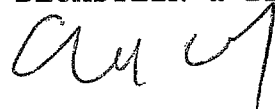
**SZAFERMAN
LAKIND**

*FOIA Requester Service Center
US Consumer Product Safety Commission
April 11, 2019
Page 2*

Thank you.

Very truly yours,

**SZAFERMAN, LAKIND,
BLUMSTEIN & BLADER, P.C.**



Arnold C. Lakind

ACL/s

c: Rabbi Abraham Mykoff
Eric Kammer
Ron Greenberg
Harold Gerr, Esq.

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August 6, 2019
Via Certified and Regular

Our file: 84259.1
FOIA Requester Service Center
US Consumer Product Safety Commission
4330 East West Highway, Room 820
Bethesda, MD 20814

Re: Poile Zedek Fire
CPSC Case No. 151117CCC1136
Freedom of Information Act Request #19-F-00120

Dear Madam or Sir:

On February 1, 2019, I submitted the above Freedom of Information Act Request. On February 11, you informed me that section 6(b)(1) of the Consumer Product Safety Act requires that, before disclosing information, the Commission shall "to the extent practicable, notify and provide a summary of the information to each manufacturer" 15 U.S.C. 2055(a)(3) requires a manufacturer to respond within 15 days identifying proprietary information. On April 11, 2019, I sent you a follow-up letter inquiring as to the status of my request. To date no documents have been provided.

Clearly enough time has gone by to allow you to assess whether or not the requested information may be disclosed. As you know 16 CFR 105.4 requires a response within 20 days. Please provide the requested information within the next ten days. If I do not receive the requested information, I will file an action against your agency.

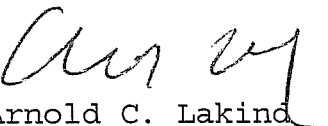
**SZAFERMAN
LAKIND**

FOIA Requester Service Center
US Consumer Product Safety Commission
August 6, 2019
Page 2

Thank you.

Very truly yours,

SZAFERMAN, LAKIND,
BLUMSTEIN & BLADER, P.C.


Arnold C. Lakind

ACL/s

c: Rabbi Abraham Mykoff
Eric Kammer
Ron Greenberg
Harold Gerr, Esq.

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#Retired

October 25, 2019

Our file: 84259.1
FOIA Requester Service Center
US Consumer Product Safety Commission
4330 East West Highway, Room 820
Bethesda, MD 20814

Re: Poile Zedek Fire
CPSC Case No. 151117CCC1136
Freedom of Information Act Request #19-F-00120

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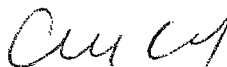
**SZAFERMAN
LAKIND**

*FOIA Requester Service Center
US Consumer Product Safety Commission
October 25, 2019
Page 2*

Thank you.

Very truly yours,

SZAFERMAN, LAKIND,
BLUMSTEIN & BLADER, P.C.



Arnold C. Lakind

ACL/s

c: Rabbi Abraham Mykoff
Eric Kammer
Ron Greenberg
Harold Gerr, Esq.